

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Monzell L. Hicks,)	
)	
Plaintiff,)	Civil Action No.: 2:17-cv-03320-JMC
)	
v.)	
)	
Donna Miller,)	ORDER AND OPINION
Defendant.)	
_____)	

This matter is before the court for a review of the Magistrate Judge’s Report and Recommendation (“Report”), [ECF No. 31], filed on August 23, 2018, recommending that the Complaint be dismissed with prejudice. The court accepts the Magistrate Judge’s Report [ECF No. 31] and incorporates it herein by reference. For the reasons set out in the Report, the Complaint in the above-titled action is dismissed with prejudice.

I. FACTUAL AND PROCEDURAL BACKGROUND

The Report sets forth the relevant facts and legal standards, which this court incorporates herein without a full recitation. [ECF No. 31]. As brief background, Plaintiff filed a *pro se* action against Defendant, a nurse in the Greenwood County Detention Center, as a result of her refusal to allow Plaintiff additional pain medication or a referral to an outside physician after a fall. [ECF No. 1]. Defendant filed a Motion for Summary Judgment on June 27, 2018 [ECF. No. 26], to which Plaintiff did not respond. The Magistrate Judge issued an Order [ECF No. 27], advising Plaintiff of the necessity of a response, and Plaintiff still failed to respond. The Magistrate Judge then filed a second Order [ECF No. 29], once again advising Plaintiff that his failure to respond to Defendant’s motion would result in a dismissal of his Complaint. [ECF No. 29]. Plaintiff again failed to respond. The Magistrate Judge then filed this Report, recommending

that Plaintiff's Complaint be dismissed with prejudice for failure to comply with the Court's order and lack of prosecution. [ECF No. 31].

II. STANDARD OF REVIEW

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District Court of South Carolina. The Magistrate Judge only makes a recommendation to this court; the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This court is charged with engaging in a *de novo* review of those portions of the Report and Recommendation to which the parties have made specific objections; the court may accept, reject or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

III. DISCUSSION

The parties were notified of their right to file objections. No objections to the Report were filed. In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation without modification. *See Camby v. Davis*, 718 F.2d 198, 199. Absent objections, the court must only ensure that there is no clear error on the face of the record in order to accept the recommendation. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). If a party fails to file a specific, written, objection to the Report and Recommendation the party forfeits the right to appeal the District Court's decision concerning the Report. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

IV. CONCLUSION

After a thorough and careful review of the record, the court finds the Magistrate Judge's Report and Recommendation provides an accurate summary of the facts and law in the above titled case. The court **ACCEPTS** the Magistrate Judge's Report and Recommendation [ECF No. 31] and incorporates it herein by reference. For the reasons set out in the Report, the Complaint in the above titled action is **DISMISSED WITH PREJUDICE**. Defendant's Motion for Summary Judgment [ECF No. 26] is **DENIED AS MOOT**.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

October 12, 2018
Columbia, South Carolina